UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,285	03/31/2004	Ezra Jacques Elie Eric Setton	80398P593	8350

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EXAMINER
HOLDER, ANNER N

ART UNIT	PAPER NUMBER
2621	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/815,285	SETTON ET AL.
	Examiner	Art Unit	
	ANNER HOLDER	2621	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>12/01/08</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-40</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-40</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>31 March 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
        application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 04/28/08 have been fully considered but they are not persuasive. As to Applicant's arguments Examiner respectfully disagrees. Apostolopoulos teaches and fairly suggest a receiver [fig. 1 (124) and fig.11] and the restart at a restart condition (loss pf packet). [Col. 7 lines 9-37]

2.   In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, references Apostolopoulos and Caglar are in the same field of endeavor. Apostolopoulos teaches video communication and encoding, Caglar teaches video encoding. In combining the teachings of Apostolopoulos and Caglar video quality is improved.

3.   Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

4.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement

thereof, may obtain a patent therefor, subject to the conditions and requirements

of this title.

5.   Claims 23-33 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter. The claim language does not comply with the

requirements of MPEP 2106.01 I and is directed to non-statutory subject matter as

follows. Claims 23-33 defines a computer program in the specification as being "stored

in a processor or machine accessible medium or transmitted by a computer data signal

embodied in a carrier wave or a signal modulated by a carrier, over a transmission

medium." [¶ 0074] The scope of the presently claimed invention encompasses products

that are not necessarily computer readable, and thus NOT able to impart any

functionality of the recited program.

Note:

A "signal" (or equivalent) embodying functional descriptive material is neither a

process nor a product (i.e., a tangible "thing") and therefore does not fall within one

of the four statutory classes of § 101. Rather, "signal" is a form of energy, in the

absence of any physical structure or tangible material.

Should the full scope of the claim as properly read in light of the disclosure

encompass non-statutory subject matter such as a "signal", the claim as a whole would

be non-statutory.

The examiner suggests amending the claim(s) to embody the computer program

on "computer-readable medium" and deleting in the specification all sections defining or

equivalent, the computer readable medium as a "signal", "carrier wave", "transmission

medium", or "paper" which are deemed non-statutory (refer to "note" Above). An article

of manufacturing as disclosed by Applicant may include paper or a carrier wave, which

is not in compliance with 35 U.S.C. 101. Any amendment to the claim should be

commensurate with its corresponding disclosure.

Specification

6.   The disclosure is objected to because of the following informalities: there is

insufficient antecedent basis for support of claims 23-33 language. The specification

lacks support for a machine accessible storage medium there is only support provided

for a storage medium device 1270. However, there is not support that the device 1270

stores (contains) a computer readable program code to perform tasks to implement the

invention see ¶ 072.

         Appropriate correction is required.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

         (a) A patent may not be obtained though the invention is not identically disclosed

         or described as set forth in section 102 of this title, if the differences between the

         subject matter sought to be patented and the prior art are such that the subject

         matter as a whole would have been obvious at the time the invention was made

         to a person having ordinary skill in the art to which said subject matter pertains.

         Patentability shall not be negatived by the manner in which the invention was

         made.

8.   Claims 1-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apostolopoulos US 7,103,669 B2 in view of Caglar et al. (Caglar) US 2006/0146934 A1.

9.   As to claim 1, Apostolopoulos teaches a receiver to receive a default stream and N restart sub-streams from a transmitter over a transmission path, N being an integer equal to at least 1 and selected according to a selection, the default stream being coded by a multiple description (MD) coding, the N restart sub-streams being coded by a predictive coding and sampled according to a sampling pattern, the default and N restart sub-streams corresponding to a media content, at least one of the N restart sub-streams restarting the media content when there is restart condition; [Abstract; Figs. 1-5; Figs. 7; Fig. 11; Col. 9 line 40-46; Col. 3 lines 48-62; Col. 5 lines 50-56; Col. 7 lines 30-58; Col. 7 line 66 – Col. 8 line 4; Col. 11 lines 65 – Col. 12 line 29; Col. 13 lines 59-60] and a selector coupled to the receiver to select a receiving frame from the default stream and one of the N restart sub-streams according to a loss status in the default stream. [Col. 7 lines 9-37]

Apostolopoulos does not explicitly teach a default stream and N sub-stream.

Caglar teaches a default stream and N sub-stream. [figs. 4-9; ¶ 0036; ¶ 0041; ¶ 0043-0045; ¶ 0028; ¶ 0271; ¶ 0125]

It would have been obvious to one of ordinary skill in the art at the time the intervention was made to incorporate the teachings of Caglar with the device of Apostolopoulos allowing for improved coding efficiency and image quality. [¶ 0042; ¶ 0044]

10.   As to claim 2, Apostolopoulos (modified by Caglar) teaches a decoder to decode

the receiving frame. [Abstract; Figs.1-3; Fig. 9; Fig. 11; Col. 4 lines 5-9; Col. 6 lines

17-20; Col. 7 lines 9-37; Col. 10 lines 42-51; Col. 12 line 66 - Col. 13 line 5; Col.

13 lines 23-29]

11.   As to claim 3, Apostolopoulos (modified by Caglar) teaches the selector selects

the receiving frame from the one of the N restart sub-streams when the loss status

indicates there is a lost frame in the default stream. [Col. 7 lines 9-37; Col. 11 line 65 -

Col. 12 line 29]

12.   As to claim 4, Apostolopoulos (modified by Caglar) teaches the selector selects

the receiving frame from one of the N restart sub-streams, the selected receiving frame

being nearest to the lost frame and belonging to same description as the lost frame.

[Fig. 5; Col. 10 line 52 – Col. 11 line 3; Fig. 6; Col. 11 line 65 – Col. 12 line 29; Col. 13

lines 57-60; Col. 14 lines 6-11]

13.   As to claim 5, Apostolopoulos (modified by Caglar) teaches the selector selects

the default stream when the loss status indicates there is no lost frame in the default

stream. [Col. 14 lines 6-11; Col. 13 lines 23-29]

14.   As to claim 6, Apostolopoulos (modified by Caglar) teaches the selector selects

the default stream after the receiving frame from the one of the N restart sub-stream is

selected. [Col. 14 lines 6-11; Col. 13 lines 23-29]

15.   As to claim 7, Apostolopoulos (modified by Caglar) teaches the selection is

based on at least one of bandwidth and loss rate of the transmission path. [Abstract;

16.   As to claim 8, Apostolopoulos (modified by Caglar) teaches the sampling pattern

is a non-overlapping pattern or having frames from each description of the MD coding.

[Col. 4 lines 10-36; Col. 6 line 53 – Col. 7 line 8; Col. 7 line 39-52]

17.   As to claim 9, Apostolopoulos teaches limitations of claim 1.

Apostolopoulos does not specifically teach layered representation of the frames

according to an encoding rate.

Caglar teaches layered representation of the frames according to an encoding rate.

[Figs. 4-9; ¶ 0035; ¶ 0036; ¶ 0039; ¶ 0041-0044; ¶ 0046]

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to incorporate the layered encoding methods of Caglar with the device of

Apostolopoulos, allowing for improvements in image quality.

18.   As to claim 10, Apostolopoulos (modified by Caglar) teaches a transmitter to

transmit a default stream and N restart sub-streams to a plurality of receivers over a

plurality of transmission paths, N being an integer equal to at least 1 and selected

according to a selection at the receivers, the default stream being coded by a multiple

description (MD) coding, the N restart sub-streams being coded by a predictive coding

and sampled according to a sampling pattern, the default and N restart sub-streams

corresponding to a media content, at least one of the N restart sub-streams restarting

the media content when there is restart condition. [Abstract; Figs. 1-5; Figs. 7; Fig. 11;

Col. 9 line 40-46; Col. 3 lines 48-62; Col. 5 lines 50-56; Col. 7 lines 30-58; Col. 7 line 66

– Col. 8 line 4; Col. 11 lines 65 – Col. 12 line 29; Col. 13 lines 59-60]

19.   As to claim 11,   Apostolopoulos teaches the limitations of claim 10.

Apostolopoulos does not specifically teach layered representation of the frames according to an encoding rate.

Caglar teaches layered representation of the frames according to an encoding rate. [Figs. 4-9; ¶ 0035; ¶ 0036; ¶ 0039; ¶ 0041-0044; ¶ 0046]

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the layered encoding methods of Caglar with the device of Apostolopoulos, allowing for improvements in image quality.

20.   As to claim 12, see rejection of claim 1 above.

21.   As to claim 13, see rejection of claim 2 above.

22.   As to claim 14, see rejection of claim 3 above.

23.   As to claim 15, see rejection of claim 4 above.

24.   As to claim 16, see rejection of claim 5 above.

25.   As to claim 17, see rejection of claim 6 above.

26.   As to claim 18, see rejection of claim 7 above.

27.   As to claim 19, see rejection of claim 8 above.

28.   As to claim 20, see rejection of claim 9 above.

29.   As to claim 23, see rejection of claim 1 above.

30.   As to claim 24, see rejection of claim 2 above.

31.   As to claim 25, see rejection of claim 3 above.

32.   As to claim 26, see rejection of claim 4 above.

33.   As to claim 27, see rejection of claim 5 above.

34.   As to claim 28, see rejection of claim 1 above.

35.   As to claim 29, see rejection of claim 6 above.

36.   As to claim 30, see rejection of claim 8 above.

37.   As to claim 31, see rejection of claim 9 above.

38.   As to claim 32, see rejection of claim 10 above.

39.   As to claim 33, see rejection of claim 9 above.

40.   As to claim 34, see rejection of claim 1 above.

41.   As to claim 35, see rejection of claim 2 above.

42.   As to claim 36, see rejection of claim 3 above.

43.   As to claim 37, see rejection of claim 4 above.

44.   As to claim 38, see rejection of claim 5 above.

45.   As to claim 39, see rejection of claim 10 above.

46.   As to claim 40, see rejection of claim 11 above.

Conclusion

47.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANNER HOLDER whose telephone number is (571)270-1549. The examiner can normally be reached on M-Th, M-F 8 am - 3 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anner Holder/

Examiner, Art Unit 2621 02/25/09

/Tung Vo/

Primary Examiner, Art Unit 2621